

M/P

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Javier HERNANDEZ-Vega,

Defendant

08 FEB 25 PM 12:16

'08 MJ 0557

Magistrate Docket No.

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

BY:

COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326  
Deported Alien Found in the  
United States

The undersigned complainant, being duly sworn, states:

On or about **February 24, 2008**, within the Southern District of California, defendant, **Javier HERNANDEZ-Vega**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT

James Trombley  
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **25th** DAY OF **FEBRUARY 2008**.

Nita L. Stormes

UNITED STATES MAGISTRATE JUDGE

MIP

**CONTINUATION OF COMPLAINT:****Javier HERNANDEZ-Vega****PROBABLE CAUSE STATEMENT**

On February 24, 2008, at approximately 0750 hrs, Supervisory Border Patrol Agent K. Krall heard Border Patrol Agent B. DeClercq via service radio, state that he had noticed a silver Chevrolet Trailblazer traveling eastbound on SR 94 near an area known as "Canyon City." Agent DeClercq stated that he saw the vehicle slow down near the train trestle and make a u-turn and stop under the trestle. He then observed the vehicle travel back westbound and then return eastbound within a couple of minutes.

Agent Krall was near an area known as "Loony's" and waited for the vehicle to pass his location. When the vehicle passed his location, he began following and observed that the vehicle appeared to be heavily laden and was swaying back and forth in the lane of travel. Agent Krall requested record checks on the license plate. While awaiting the return of record checks, Agent Krall continued to observe the vehicle as it traveled eastbound on SR 94 towards the town of Campo, California. Once record checks were returned Agent Krall conducted a vehicle stop on the Chevrolet Trailblazer near eastbound SR 94 and Star Ranch Flats.

As Agent Krall approached the vehicle, he noticed several individuals lying on the floor and in the cargo area as if they were attempting to avoid being seen. Agent Krall identified himself as a United States border Patrol Agent and questioned the driver later identified as David GONZALEZ Jr, as to his citizenship. The driver stated that he was a United States Citizen. Agent Krall then asked him if he knew the other individuals in the vehicle and he stated that he did not know them and that they had just got into the vehicle.

Agent Krall then questioned the passenger as to his citizenship. The passenger, later identified as Bernardo GONZALEZ, stated that he was also a United States citizen. Agent Krall then questioned the other five passengers of the vehicle as to their Immigration status. All five subjects, including one later identified as the defendant **Javier HERNANDEZ-VEGA**, stated that they were citizens of Mexico and that they were not in possession of proper United States Immigration documents that would allow them enter or remain in the United States legally. At approximately 0800 hrs the driver, passenger, and the five subjects were all placed under arrest and were taken to the Tecate Border Patrol Processing Center.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico on February 10, 2005, through Nogales, Arizona**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his Miranda rights. The defendant stated that he understood his rights and was willing to answer questions without an attorney present. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. The defendant further admitted that he had been previously deported from the United States and has not applied or requested permission to re-enter the United States legally.